

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) A-2899									
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____ Signature _____ Typed or printed name _____	Application Number 09/923,696	Filed August 6, 2001									
	First Named Inventor Martin Gutfleisch										
	Art Unit 2854	Examiner Anthony H. Nguyen									
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <table style="width: 100%;"><tr><td style="width: 50%; vertical-align: top;"><input type="checkbox"/> applicant/inventor.</td><td style="width: 50%; vertical-align: top;">/Laurence A. Greenberg/ _____ Signature</td></tr><tr><td style="vertical-align: top;"><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</td><td style="vertical-align: top;">Laurence A. Greenberg _____ Typed or printed name</td></tr><tr><td style="vertical-align: top;"><input checked="" type="checkbox"/> attorney or agent of record. Registration number 29308 _____</td><td style="vertical-align: top;">954.925.1100 _____ Telephone number</td></tr><tr><td style="vertical-align: top;"><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</td><td style="vertical-align: top;">August 18, 2009 _____ Date</td></tr></table> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>				<input type="checkbox"/> applicant/inventor.	/Laurence A. Greenberg/ _____ Signature	<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)	Laurence A. Greenberg _____ Typed or printed name	<input checked="" type="checkbox"/> attorney or agent of record. Registration number 29308 _____	954.925.1100 _____ Telephone number	<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____	August 18, 2009 _____ Date
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<input type="checkbox"/> *Total of <u>1</u> forms are submitted.											

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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Argument in Support of
Pre-Appeal Brief Request for Review

In response to the non-final Office Action dated May 18, 2009, claims 3, 5-13, 15-17, and 20-26 having been twice rejected, Applicants respectfully file herewith a Notice of Appeal and request review of the present application before filing an appeal brief.

Status of the Claims

Claims 3, 5-13, 15-17, and 20-26 are pending in the present application. Claims 3, 15-17, 20, and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Nüssel (US 5,317,970). Claims 3, 6, 9, 16-17, 21, and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Koguchi (US 6,082,263). Claims 5, 15, 20, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koguchi in view of Gydesen (US 5,644,986). Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Koguchi in view of Shin (US 6,148,728). Claims 7-8, 10-12, and 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koguchi.

Clear Errors for Review

Applicants respectfully assert that the Examiner's rejections are clearly improper and request that the panel of examiners reverse the rejections.

Independent Claims 3, 16-17, and 26 of the instant application clearly recite the limitation of applying liquid clearing medium to the printing form in a non-abrasive manner, irreversibly clearing all image information on a surface of the printing form. Neither Nüssel nor Koguchi shows a liquid clearing medium (see Decision on Appeal dated September 30, 2008, page 9, first and second

paragraphs and Decision on Request for Rehearing dated February 11, 2009, page 3, last paragraph). It is noted that Nüssel only discloses gaseous fluids (not liquid) as the clearing medium (see Decision on Request for Rehearing dated February 11, 2009, page 4, last paragraph).

With regard to the rejection over Koguchi, Applicants believe that it is improper for the Examiner to raise the same rejection that has already been reversed by the Board of Patent Appeals and Interferences.

The Examiner has asserted on page 7 of the Office Action dated May 18, 2009 that Nüssel teaches the step of treating the printing form with liquid (col. 4, lines 50-52). However, treating the printing form in liquid is totally different from applying liquid clearing medium to the printing form in a non-abrasive manner, irreversibly clearing all image information on a surface of the printing form. The Examiner clearly has not understood the difference between “cleaning” and “clearing.” The term “clearing” has been construed as converting back the entire surface of the printing form to a uniform hydrophilic or lipophilic state, after the step of removing residual ink from the surface of the printing plate (see Decision on Appeal dated September 30, 2008, page 7, first paragraph). Similarly, the solvent mentioned in Koguchi is also used for cleaning, not clearing the printing form.

Accordingly, it is respectfully submitted that the claims are in condition for allowance and clear error has been committed in the non-final Office Action.